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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,828	08/17/2001	Leon Yulkowski	YUL 0105 PUS	4536

7590

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ARTZ & ARTZ, P.C.  
Suite 250  
28333 Telegraph Road  
Southfield, MI 48034

EXAMINER

VARNER, STEVE M

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/931,828

Applicant(s)

YULKOWSKI, LEON

Examiner

Steve M Varner

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-- Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5/20/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9, 12, 13, 15-18, 24, are rejected under 35 U.S.C. 102(b) as being anticipated by..

Regarding claims 1, 9, 24, Teleskivi shows spacers (10a, 10b) disposed within the void (22), a first sheet of fire resistant insulating material (28), a second sheet of fire resistant insulating material (28), a first outer skin (20), and a second outer skin (20'). (Fig. 2)

Teleskivi shows a top rail (24), a bottom rail (24), a hinge stile (24), and a latch stile (24) defining a door void (22) there between.

Teleskivi shows a filled void between the first and second sheets of fire-resistant material and the plurality of spacers, and the vertical edges, top rail, and bottom rail.

Regarding claim 2, 12, Teleskivi shows first fire resistant insulating material and the second fire resistant insulating material comprises a gypsum-based material. (Col. 2, Line 35-40)

Regarding claim 3, 13, the gypsum-based material has a fibrous mat (14) there around. (Fig. 2)

Regarding claim 5, 15, there is a plurality of studs. (Fig. 1)

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Regarding claim 6, 16, Teleskivi shows steel studs (10a, 10b). (Fig. 2)

Regarding claim 7, 17, the first outer skin and the second outer skin form a void there between. (Fig. 2)

Regarding claim 8, 18, the void has fill material (22). (Fig. 2)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Teleskivi.

Regarding claim 4, 14, Teleskivi shows the basic claimed structure. Teleskivi does not show the plurality of studs is wood. Turpin et al. shows the plurality of studs is wood (Col. 4, Line 0-5). It would have been obvious to one of ordinary skill in the art at the time the present invention was made to substitute wood for steel since these are both common structural materials with sufficient strength and rigidity to act as framing members for panels or walls.

Claims 10, 11, 19, 20-23, 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Teleskivi in view of Roberts.

Regarding claim 10, 11, Teleskivi shows the basic claimed structure. Teleskivi does not show the first and second sheets of fire resistant insulating material are coupled to the first vertical edge, the second vertical edge, the top rail and the bottom

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rail. Roberts shows the first and second sheets of fire resistant insulating material (13, 14) coupled to the first vertical edge, the second vertical edge, the top rail and the bottom rail. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a first and second sheet as in Roberts in the structure of Teleskivi to couple the fire resistant insulating material around the door.

Regarding claim 19, 25, Teleskivi shows the basic claimed structure. Teleskivi does not show predetermined thickness. It would have been an obvious design choice to have a predetermined thickness.

Regarding claims 20-23, the claimed methods are the obvious methods of forming Teleskivi's modified fire resistant structure.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tang shows a composite fire proof, heat-barrier door. Turpin et al. shows a gypsum board/intumescent material fire barrier wall. Kempel shows a door construction.

### ***Response to Arguments***

Applicant's arguments filed 5/20/03 have been fully considered but they are not persuasive.

Applicant argues that the Teleskivi reference does not include voids that are formed between sheets of insulating material and spacers.

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(20) may be taken as insulating material. (Fig. 2) Teleskivi's voids are filled with insulating batts (Col. 2, Line 25-30) (22). Applicant recognizes that voids may be filled. See claims 8, 18, where Applicant claims fill material in the void.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV  
July 28, 2003

A handwritten signature, possibly reading 'W', in black ink.A handwritten signature in black ink, appearing to be 'Carl D. Friedman'.

Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600